IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 395 OF 2003

SMT. SUNITA SHYAM NAIK AND 2 ORS., ...Petitioners

Versus

SHRI ABHINAY J. DESAI AND ANR., ...Respondents

S.G.Desai, senior counsel with S.Kashalkar i/b.
Mandar Shirodkar for the petitioners.

Sudin Usgaonkar with Ms.R.Kamath
for the respondents.

Coram:- V.C. DAGA, J.

Date:- 11th August, 2006

P.C. :

Heard learned counsel for the rival parties.

Perused petition.

The issues recasted on 27th March, 2003 by the Civil Judge, Senior Division, Margao in Special Civil Suit No.36/2002/A are challenged in this petition. There was no specific order passed by the trial Court in this behalf. As a matter of fact, it was expected on the part of the trial Court to pass a reasoned order which necessited recasting of issues and thereafter the Court should have recasted the issues. However, there is no such order.

Be that as it may, after hearing both parties and looking to the consensus between the parties and in the interest of justice petition can be disposed of by framing one additional issue as issue No.3A, reading as under:

3A. Whether the plaintiffs prove that they are entitled
to a decree of permanent injunction as prayed?

Looking to the pledings raised in the written statement filed by the defendants, no additional pleadings are necessary for adjudication of the above issue.

In the above iew of the matter, petition is partly allowed to the extent additional issue framed hereinabove. Rule is made absolute in terms of this order with no order as to costs.

V.C. DAGA, J.

SK